

MDR Tracking Number: M5-04-3938-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on July 20, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the therapeutic exercises, ultrasound therapy, hot/cold packs, office visits and DME **were not** medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the treatment listed above were not found to be medically necessary, reimbursement for dates of service from 08-05-03 to 09-03-03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 7th day of September 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

August 27, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-3938-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear

____ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ____ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ____ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's
Information provided by Requestor: office notes, narrative summary, daily treatment logs, radiology reports.

Clinical History:

Patient is a 26-year-old male who, on ____, lifted a heavy box while rotating his body and felt a sudden pain in his lower back at the time of injury. The pain intensified, and then he gradually developed left sciatic pain. He eventually returned to work in August of that year, and then while performing the same duties, experienced another incident that aggravated his lower back and left leg pains. He tried conservative therapies and epidural injections, but eventually underwent discectomy and laminectomy at L5-S1 in May 2003, followed by post-operative physical therapy, rehabilitation and chiropractic.

Disputed Services:

Therapeutic exercises, ultrasound therapy, hot/cold packs, office visits and DME during the period of 08/05/03 through 09/03/03.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were not medically necessary in this case.

Rationale:

In this case, the records reveal that not only did the patient fail to improve with the prescribed care he actually worsened over the time frame in dispute. Specifically, the records show that on 07/21/03, lumbar flexion, extension, left side bending and right side bending were recorded at 88, 28, 33, and 32 degrees, respectively. On the

reexamination dated 08/21/03, the same measurements were recorded at 82, 24, 31, and 29 degrees. Therefore, all motions decreased after one month of care. The patient's non-response to care was also documented in his personal letter to the Commission dated 10/09/03 wherein he wrote, "I presently feel that I am not getting better and I want to seek other treatment options."

Further, according to the daily treatment notes, the patient continued to rate his pain between 5-7/10 throughout the dates in question, ending at a 6.5/10 on the last date of service included for review (09/03/03). And finally, the TWCC-73s reveal that the patient still had not returned to work. Therefore, the care prescribed failed to meet the statutory requirements of Texas Labor Code 408.021 in that it did not relieve symptoms, promote recovery or enhance the patient's ability to return to work. As such, it was not medically necessary.

Sincerely,